

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2809

Introduced by Assembly Member Rodriguez

February 19, 2016

An act to amend Sections 4646.5, 4648, 4648.35, 4648.5, 4648.55, 4659, 4686.2, and 4686.5 of the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2809, as amended, Rodriguez. Developmental services: regional centers.

Existing law, the California Early Intervention Services Act, provides a statewide system of coordinated, comprehensive, family-centered, multidisciplinary, and interagency programs that are responsible for providing appropriate early intervention services and support to all eligible infants and toddlers, as defined, and their families and requires an eligible infant or toddler receiving services under the act to have an individualized family service plan (IFSP). The act requires these services to be provided pursuant to the existing regional center system under the Lanterman Developmental Disabilities Service Act.

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is responsible for providing various services and supports to individuals with developmental disabilities, and for ensuring the appropriateness and quality of those services and supports. Under existing law, the department contracts with regional centers to provide services and supports to persons with developmental disabilities. The services and supports to be provided to a regional center consumer are contained

in an individual program plan (IPP), developed in accordance with prescribed requirements.

This bill would require regional centers to give certain information and materials to a consumer or his or her parents, legal guardian, conservator, or authorized representative, or both, at the time of development, scheduled review, or modification of a consumer's IPP or IFSP and would require that information and those materials to be in his, her, or their native language.

Existing law generally provides, beginning July 1, 2009 that a regional center shall not purchase medical or dental services for a consumer 3 years of age or older unless the regional center is provided with documentation of a Medi-Cal, private insurance, or a health care service plan denial and the regional center determines that an appeal of the denial by the consumer or family does not have merit. Existing law authorizes regional centers to pay for medical or dental services during certain periods, including, among others, while coverage is being pursued, but before a denial is made.

This bill would instead require regional centers to pay for medical or dental services during those periods.

Existing law also requires a regional center to only purchase applied behavioral analysis (ABA) services or intensive behavioral intervention services when the parent or parents of minor consumers receiving services participate in the intervention plan for the consumers.

This bill would require the regional center, when determining the extent of parent participation to consider any relevant hardships suffered by a parent or parents that may constitute a barrier to the consumer accessing those services. The bill would require the hardships to be documented in the IPP or IFSP and reviewed annually to determine if there has been a change in circumstances.

~~Existing law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to enter into contracts with private nonprofit corporations to operate regional centers to provide community services and supports for persons with developmental disabilities and their families.~~

~~This bill would state the intent of the Legislature to enact legislation to require regional centers to provide nontechnical, understandable information in a consumer's native language regarding the complex process of obtaining regional center services.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 4646.5 of the Welfare and Institutions*
2 *Code is amended to read:*

3 4646.5. (a) The planning process for the individual program
4 plan described in Section 4646 shall include all of the following:

5 (1) Gathering information and conducting assessments to
6 determine the life goals, capabilities and strengths, preferences,
7 barriers, and concerns or problems of the person with
8 developmental disabilities. For children with developmental
9 disabilities, this process should include a review of the strengths,
10 preferences, and needs of the child and the family unit as a whole.
11 Assessments shall be conducted by qualified individuals and
12 performed in natural environments whenever possible. Information
13 shall be taken from the consumer, his or her parents and other
14 family members, his or her friends, advocates, authorized
15 representative, if applicable, providers of services and supports,
16 and other agencies. The assessment process shall reflect awareness
17 of, and sensitivity to, the lifestyle and cultural background of the
18 consumer and the family.

19 (2) A statement of goals, based on the needs, preferences, and
20 life choices of the individual with developmental disabilities, and
21 a statement of specific, time-limited objectives for implementing
22 the person's goals and addressing his or her needs. These objectives
23 shall be stated in terms that allow measurement of progress or
24 monitoring of service delivery. These goals and objectives should
25 maximize opportunities for the consumer to develop relationships,
26 be part of community life in the areas of community participation,
27 housing, work, school, and leisure, increase control over his or her
28 life, acquire increasingly positive roles in community life, and
29 develop competencies to help accomplish these goals.

30 (3) When developing individual program plans for children,
31 regional centers shall be guided by the principles, process, and
32 services and support parameters set forth in Section 4685.

33 (4) When developing an individual program plan for a transition
34 age youth or working age adult, the planning team shall consider
35 the Employment First Policy described in Chapter 14 (commencing
36 with Section 4868).

37 (5) A schedule of the type and amount of services and supports
38 to be purchased by the regional center or obtained from generic

1 agencies or other resources in order to achieve the individual
2 program plan goals and objectives, and identification of the
3 provider or providers of service responsible for attaining each
4 objective, including, but not limited to, vendors, contracted
5 providers, generic service agencies, and natural supports. The
6 individual program plan shall specify the approximate scheduled
7 start date for services and supports and shall contain timelines for
8 actions necessary to begin services and supports, including generic
9 services. In addition to the requirements of subdivision (h) of
10 Section 4646, each regional center shall offer, and upon request
11 provide, a written copy of the individual program plan to the
12 consumer, and, when appropriate, his or her parents, legal guardian
13 or conservator, or authorized representative within 45 days of their
14 request in a threshold language, as defined by paragraph (3) of
15 subdivision (a) of Section 1810.410 of Title 9 of the California
16 Code of Regulations.

17 *(6) At the beginning of each individual program plan meeting,*
18 *the regional center shall provide a consumer and, when*
19 *appropriate, his or her parents, legal guardian, conservator, or*
20 *authorized representative a list of services provided by the regional*
21 *center and information about the appeal and complaint process*
22 *in his or her native language.*

23 *(7) At the end of the individual program plan meeting, the*
24 *regional center shall provide a consumer and, when appropriate,*
25 *his or her parents, legal guardian, conservator, or authorized*
26 *representative a written list of agreed-upon services and supports,*
27 *including the amount and anticipated start date, and a list of any*
28 *services and supports for which final agreement has not yet been*
29 *reached and for which there will be a subsequent program plan*
30 *meeting pursuant to subdivision (f) of Section 4646.*

31 ~~(6)~~

32 (8) When agreed to by the consumer, the parents, legally
33 appointed guardian, or authorized representative of a minor
34 consumer, or the legally appointed conservator of an adult
35 consumer or the authorized representative, including those
36 appointed pursuant to subdivision (a) of Section 4541, subdivision
37 (b) of Section 4701.6, and subdivision (e) of Section 4705, a review
38 of the general health status of the adult or child, including medical,
39 dental, and mental health needs, shall be conducted. This review
40 shall include a discussion of current medications, any observed

1 side effects, and the date of the last review of the medication.
2 Service providers shall cooperate with the planning team to provide
3 any information necessary to complete the health status review. If
4 any concerns are noted during the review, referrals shall be made
5 to regional center clinicians or to the consumer's physician, as
6 appropriate. Documentation of health status and referrals shall be
7 made in the consumer's record by the service coordinator.

8 ~~(7)~~

9 (9) (A) The development of a transportation access plan for a
10 consumer when all of the following conditions are met:

11 (i) The regional center is purchasing private, specialized
12 transportation services or services from a residential, day, or other
13 provider, excluding vouchered service providers, to transport the
14 consumer to and from day or work services.

15 (ii) The planning team has determined that a consumer's
16 community integration and participation could be safe and
17 enhanced through the use of public transportation services.

18 (iii) The planning team has determined that generic
19 transportation services are available and accessible.

20 (B) To maximize independence and community integration and
21 participation, the transportation access plan shall identify the
22 services and supports necessary to assist the consumer in accessing
23 public transportation and shall comply with Section 4648.35. These
24 services and supports may include, but are not limited to, mobility
25 training services and the use of transportation aides. Regional
26 centers are encouraged to coordinate with local public
27 transportation agencies.

28 ~~(8)~~

29 (10) A schedule of regular periodic review and reevaluation to
30 ascertain that planned services have been provided, that objectives
31 have been fulfilled within the times specified, and that consumers
32 and families are satisfied with the individual program plan and its
33 implementation.

34 (b) For all active cases, individual program plans shall be
35 reviewed and modified by the planning team, through the process
36 described in Section 4646, as necessary, in response to the person's
37 achievement or changing needs, and no less often than once every
38 three years. If the consumer or, where appropriate, the consumer's
39 parents, legal guardian, authorized representative, or conservator

1 requests an individual program plan review, the individual program
2 shall be reviewed within 30 days after the request is submitted.

3 (c) (1) The department, with the participation of representatives
4 of a statewide consumer organization, the Association of Regional
5 Center Agencies, an organized labor organization representing
6 service coordination staff, and the state council shall prepare
7 training material and a standard format and instructions for the
8 preparation of individual program plans, which embody an
9 approach centered on the person and family.

10 (2) Each regional center shall use the training materials and
11 format prepared by the department pursuant to paragraph (1).

12 (3) The department shall biennially review a random sample of
13 individual program plans at each regional center to ensure that
14 these plans are being developed and modified in compliance with
15 Section 4646 and this section.

16 *SEC. 2. Section 4648 of the Welfare and Institutions Code is*
17 *amended to read:*

18 4648. In order to achieve the stated objectives of a consumer's
19 individual program plan, the regional center shall conduct activities,
20 including, but not limited to, all of the following:

21 (a) Securing needed services and supports.

22 (1) It is the intent of the Legislature that services and supports
23 assist individuals with developmental disabilities in achieving the
24 greatest self-sufficiency possible and in exercising personal
25 choices. The regional center shall secure services and supports
26 that meet the needs of the consumer, as determined in the
27 consumer's individual program plan, and within the context of the
28 individual program plan, the planning team shall give highest
29 preference to those services and supports which would allow
30 minors with developmental disabilities to live with their families,
31 adult persons with developmental disabilities to live as
32 independently as possible in the community, and that allow all
33 consumers to interact with persons without disabilities in positive,
34 meaningful ways.

35 (2) In implementing individual program plans, regional centers,
36 through the planning team, shall first consider services and supports
37 in natural community, home, work, and recreational settings.
38 Services and supports shall be flexible and individually tailored
39 to the consumer and, where appropriate, his or her family.

1 (3) A regional center may, pursuant to vendorization or a
2 contract, purchase services or supports for a consumer from any
3 individual or agency that the regional center and consumer or,
4 when appropriate, his or her parents, legal guardian, or conservator,
5 or authorized representatives, determines will best accomplish all
6 or any part of that consumer's program plan.

7 (A) Vendorization or contracting is the process for identification,
8 selection, and utilization of service vendors or contractors, based
9 on the qualifications and other requirements necessary in order to
10 provide the service.

11 (B) A regional center may reimburse an individual or agency
12 for services or supports provided to a regional center consumer if
13 the individual or agency has a rate of payment for vendored or
14 contracted services established by the department, pursuant to this
15 division, and is providing services pursuant to an emergency
16 vendorization or has completed the vendorization procedures or
17 has entered into a contract with the regional center and continues
18 to comply with the vendorization or contracting requirements. The
19 director shall adopt regulations governing the vendorization process
20 to be utilized by the department, regional centers, vendors, and
21 the individual or agency requesting vendorization.

22 (C) Regulations shall include, but not be limited to: the vendor
23 application process, and the basis for accepting or denying an
24 application; the qualification and requirements for each category
25 of services that may be provided to a regional center consumer
26 through a vendor; requirements for emergency vendorization;
27 procedures for termination of vendorization; the procedure for an
28 individual or an agency to appeal any vendorization decision made
29 by the department or regional center.

30 (D) A regional center may vendorize a licensed facility for
31 exclusive services to persons with developmental disabilities at a
32 capacity equal to or less than the facility's licensed capacity. A
33 facility already licensed on January 1, 1999, shall continue to be
34 vendorized at their full licensed capacity until the facility agrees
35 to vendorization at a reduced capacity.

36 (E) Effective July 1, 2009, notwithstanding any other law or
37 regulation, a regional center shall not newly vendor a State
38 Department of Social Services licensed 24-hour residential care
39 facility with a licensed capacity of 16 or more beds, unless the

1 facility qualifies for receipt of federal funds under the Medicaid
2 Program.

3 (4) Notwithstanding subparagraph (B) of paragraph (3), a
4 regional center may contract or issue a voucher for services and
5 supports provided to a consumer or family at a cost not to exceed
6 the maximum rate of payment for that service or support
7 established by the department. If a rate has not been established
8 by the department, the regional center may, for an interim period,
9 contract for a specified service or support with, and establish a
10 rate of payment for, any provider of the service or support
11 necessary to implement a consumer's individual program plan.
12 Contracts may be negotiated for a period of up to three years, with
13 annual review and subject to the availability of funds.

14 (5) In order to ensure the maximum flexibility and availability
15 of appropriate services and supports for persons with
16 developmental disabilities, the department shall establish and
17 maintain an equitable system of payment to providers of services
18 and supports identified as necessary to the implementation of a
19 consumers' individual program plan. The system of payment shall
20 include a provision for a rate to ensure that the provider can meet
21 the special needs of consumers and provide quality services and
22 supports in the least restrictive setting as required by law.

23 (6) The regional center and the consumer, or when appropriate,
24 his or her parents, legal guardian, conservator, or authorized
25 representative, including those appointed pursuant to subdivision
26 (a) of Section 4541, subdivision (b) of Section 4701.6, or
27 subdivision (e) of Section 4705, shall, pursuant to the individual
28 program plan, consider all of the following when selecting a
29 provider of consumer services and supports:

30 (A) A provider's ability to deliver quality services or supports
31 that can accomplish all or part of the consumer's individual
32 program plan.

33 (B) A provider's success in achieving the objectives set forth
34 in the individual program plan.

35 (C) Where appropriate, the existence of licensing, accreditation,
36 or professional certification.

37 (D) The cost of providing services or supports of comparable
38 quality by different providers, if available, shall be reviewed, and
39 the least costly available provider of comparable service, including
40 the cost of transportation, who is able to accomplish all or part of

1 the consumer's individual program plan, consistent with the
2 particular needs of the consumer and family as identified in the
3 individual program plan, shall be selected. In determining the least
4 costly provider, the availability of federal financial participation
5 shall be considered. The consumer shall not be required to use the
6 least costly provider if it will result in the consumer moving from
7 an existing provider of services or supports to more restrictive or
8 less integrated services or supports.

9 (E) The consumer's choice of providers, or, when appropriate,
10 the consumer's parent's, legal guardian's, authorized
11 representative's, or conservator's choice of providers.

12 (7) No service or support provided by any agency or individual
13 shall be continued unless the consumer or, when appropriate, his
14 or her parents, legal guardian, or conservator, or authorized
15 representative, including those appointed pursuant to subdivision
16 (a) of Section 4541, subdivision (b) of Section 4701.6, or
17 subdivision (e) of Section 4705, is satisfied and the regional center
18 and the consumer or, when appropriate, the person's parents or
19 legal guardian or conservator agree that planned services and
20 supports have been provided, and reasonable progress toward
21 objectives have been made.

22 (8) Regional center funds shall not be used to supplant the
23 budget of any agency that has a legal responsibility to serve all
24 members of the general public and is receiving public funds for
25 providing those services.

26 (9) (A) A regional center may, directly or through an agency
27 acting on behalf of the center, provide placement in, purchase of,
28 or follow-along services to persons with developmental disabilities
29 in, appropriate community living arrangements, including, but not
30 limited to, support service for consumers in homes they own or
31 lease, foster family placements, health care facilities, and licensed
32 community care facilities. In considering appropriate placement
33 alternatives for children with developmental disabilities, approval
34 by the child's parent or guardian shall be obtained before placement
35 is made.

36 (B) Effective July 1, 2012, notwithstanding any other law or
37 regulation, a regional center shall not purchase residential services
38 from a State Department of Social Services licensed 24-hour
39 residential care facility with a licensed capacity of 16 or more

1 beds. This prohibition on regional center purchase of residential
2 services shall not apply to any of the following:

3 (i) A residential facility with a licensed capacity of 16 or more
4 beds that has been approved to participate in the department's
5 Home and Community Based Services Waiver or another existing
6 waiver program or certified to participate in the Medi-Cal program.

7 (ii) A residential facility service provider that has a written
8 agreement and specific plan prior to July 1, 2012, with the
9 vendoring regional center to downsize the existing facility by
10 transitioning its residential services to living arrangements of 15
11 beds or less or restructure the large facility to meet federal
12 Medicaid eligibility requirements on or before June 30, 2013.

13 (iii) A residential facility licensed as a mental health
14 rehabilitation center by the State Department of Mental Health or
15 successor agency under any of the following circumstances:

16 (I) The facility is eligible for Medicaid reimbursement.

17 (II) The facility has a department-approved plan in place by
18 June 30, 2013, to transition to a program structure eligible for
19 federal Medicaid funding, and this transition will be completed by
20 June 30, 2014. The department may grant an extension for the date
21 by which the transition will be completed if the facility
22 demonstrates that it has made significant progress toward transition,
23 and states with specificity the timeframe by which the transition
24 will be completed and the specified steps that will be taken to
25 accomplish the transition. A regional center may pay for the costs
26 of care and treatment of a consumer residing in the facility on June
27 30, 2012, until June 30, 2013, inclusive, and, if the facility has a
28 department-approved plan in place by June 30, 2013, may continue
29 to pay the costs under this subparagraph until June 30, 2014, or
30 until the end of any period during which the department has granted
31 an extension.

32 (III) There is an emergency circumstance in which the regional
33 center determines that it cannot locate alternate federally eligible
34 services to meet the consumer's needs. Under such an emergency
35 circumstance, an assessment shall be completed by the regional
36 center as soon as possible and within 30 days of admission. An
37 individual program plan meeting shall be convened immediately
38 following the assessment to determine the services and supports
39 needed for stabilization and to develop a plan to transition the
40 consumer from the facility into the community. If transition is not

1 expected within 90 days of admission, an individual program plan
2 meeting shall be held to discuss the status of transition and to
3 determine if the consumer is still in need of placement in the
4 facility. Commencing October 1, 2012, this determination shall
5 be made after also considering resource options identified by the
6 statewide specialized resource service. If it is determined that
7 emergency services continue to be necessary, the regional center
8 shall submit an updated transition plan that can cover a period of
9 up to 90 days. In no event shall placements under these emergency
10 circumstances exceed 180 days.

11 (C) (i) Effective July 1, 2012, notwithstanding any other law
12 or regulation, a regional center shall not purchase new residential
13 services from, or place a consumer in, institutions for mental
14 disease, as described in Part 5 (commencing with Section 5900)
15 of Division 5, for which federal Medicaid funding is not available.
16 Effective July 1, 2013, this prohibition applies regardless of the
17 availability of federal funding.

18 (ii) The prohibition described in clause (i) shall not apply to
19 emergencies, as determined by the regional center, when a regional
20 center cannot locate alternate services to meet the consumer's
21 needs. As soon as possible within 30 days of admission due to an
22 emergency, an assessment shall be completed by the regional
23 center. An individual program plan meeting shall be convened
24 immediately following the assessment, to determine the services
25 and supports needed for stabilization and to develop a plan to
26 transition the consumer from the facility to the community. If
27 transition is not expected within 90 days of admission, an
28 emergency program plan meeting shall be held to discuss the status
29 of the transition and to determine if the consumer is still in need
30 of placement in the facility. If emergency services continue to be
31 necessary, the regional center shall submit an updated transition
32 plan to the department for an extension of up to 90 days. Placement
33 shall not exceed 180 days.

34 (iii) To the extent feasible, prior to any admission, the regional
35 center shall consider resource options identified by the statewide
36 specialized resource service established pursuant to subdivision
37 (b) of Section 4418.25.

38 (iv) The clients' rights advocate shall be notified of each
39 admission and individual program planning meeting pursuant to
40 this subparagraph and may participate in all individual program

1 planning meetings unless the consumer objects on his or her own
2 behalf. For purposes of this clause, notification to the clients' rights
3 advocate shall include a copy of the most recent comprehensive
4 assessment or updated assessment and the time, date, and location
5 of the meeting, and shall be provided as soon as practicable, but
6 not less than seven calendar days prior to the meeting.

7 (v) If a consumer is placed in an institution for mental disease
8 by another entity, the institution for mental disease shall inform
9 the regional center of the placement within five days of the date
10 the consumer is admitted. If an individual's records indicate that
11 he or she is a regional center consumer, the institution for mental
12 disease shall make every effort to contact the local regional center
13 or department to determine which regional center to provide notice.
14 As soon as possible within 30 days of admission to an institution
15 for mental disease due to an emergency pursuant to clause (ii), or
16 within 30 days of notification of admission to an institution for
17 mental disease by an entity other than a regional center, an
18 assessment shall be completed by the regional center.

19 (vi) Regional centers shall complete a comprehensive assessment
20 of any consumer residing in an institution for mental disease as of
21 July 1, 2012, for which federal Medicaid funding is not available,
22 and for any consumer residing in an institution for mental disease
23 as of July 1, 2013, without regard to federal funding. The
24 comprehensive assessment shall be completed prior to the
25 consumer's next scheduled individual program plan meeting and
26 shall include identification of the services and supports needed
27 and the timeline for identifying or developing those services needed
28 to transition the consumer back to the community. Effective
29 October 1, 2012, the regional center shall also consider resource
30 options identified by the statewide specialized resource service.
31 For each individual program plan meeting convened pursuant to
32 this subparagraph, the clients' rights advocate for the regional
33 center shall be notified of the meeting and may participate in the
34 meeting unless the consumer objects on his or her own behalf. For
35 purposes of this clause, notification to the clients' rights advocate
36 shall include the time, date, and location of the meeting, and shall
37 be provided as soon as practicable, but not less than seven calendar
38 days prior to the meeting.

39 (D) A person with developmental disabilities placed by the
40 regional center in a community living arrangement shall have the

1 rights specified in this division. These rights shall be brought to
2 the person's attention by any means necessary to reasonably
3 communicate these rights to each resident, provided that, at a
4 minimum, the Director of Developmental Services prepare,
5 provide, and require to be clearly posted in all residential facilities
6 and day programs a poster using simplified language and pictures
7 that is designed to be more understandable by persons with
8 intellectual disabilities and that the rights information shall also
9 be available through the regional center to each residential facility
10 and day program in alternative formats, including, but not limited
11 to, other languages, braille, and audiotapes, when necessary to
12 meet the communication needs of consumers.

13 (E) Consumers are eligible to receive supplemental services
14 including, but not limited to, additional staffing, pursuant to the
15 process described in subdivision (d) of Section 4646. Necessary
16 additional staffing that is not specifically included in the rates paid
17 to the service provider may be purchased by the regional center if
18 the additional staff are in excess of the amount required by
19 regulation and the individual's planning team determines the
20 additional services are consistent with the provisions of the
21 individual program plan. Additional staff should be periodically
22 reviewed by the planning team for consistency with the individual
23 program plan objectives in order to determine if continued use of
24 the additional staff is necessary and appropriate and if the service
25 is producing outcomes consistent with the individual program plan.
26 Regional centers shall monitor programs to ensure that the
27 additional staff is being provided and utilized appropriately.

28 (10) Emergency and crisis intervention services including, but
29 not limited to, mental health services and behavior modification
30 services, may be provided, as needed, to maintain persons with
31 developmental disabilities in the living arrangement of their own
32 choice. Crisis services shall first be provided without disrupting a
33 person's living arrangement. If crisis intervention services are
34 unsuccessful, emergency housing shall be available in the person's
35 home community. If dislocation cannot be avoided, every effort
36 shall be made to return the person to his or her living arrangement
37 of choice, with all necessary supports, as soon as possible.

38 (11) Among other service and support options, planning teams
39 shall consider the use of paid roommates or neighbors, personal
40 assistance, technical and financial assistance, and all other service

1 and support options which would result in greater self-sufficiency
2 for the consumer and cost-effectiveness to the state.

3 (12) When facilitation as specified in an individual program
4 plan requires the services of an individual, the facilitator shall be
5 of the consumer's choosing.

6 (13) The community support may be provided to assist
7 individuals with developmental disabilities to fully participate in
8 community and civic life, including, but not limited to, programs,
9 services, work opportunities, business, and activities available to
10 persons without disabilities. This facilitation shall include, but not
11 be limited to, any of the following:

12 (A) Outreach and education to programs and services within
13 the community.

14 (B) Direct support to individuals that would enable them to
15 more fully participate in their community.

16 (C) Developing unpaid natural supports when possible.

17 (14) When feasible and recommended by the individual program
18 planning team, for purposes of facilitating better and cost-effective
19 services for consumers or family members, technology, including
20 telecommunication technology, may be used in conjunction with
21 other services and supports. Technology in lieu of a consumer's
22 in-person appearances at judicial proceedings or administrative
23 due process hearings may be used only if the consumer or, when
24 appropriate, the consumer's parent, legal guardian, conservator,
25 or authorized representative, gives informed consent. Technology
26 may be used in lieu of, or in conjunction with, in-person training
27 for providers, as appropriate.

28 (15) Other services and supports may be provided as set forth
29 in Sections 4685, 4686, 4687, 4688, and 4689, when necessary.

30 (16) Notwithstanding any other law or regulation, effective July
31 1, 2009, regional centers shall not purchase experimental
32 treatments, therapeutic services, or devices that have not been
33 clinically determined or scientifically proven to be effective or
34 safe or for which risks and complications are unknown.
35 Experimental treatments or therapeutic services include
36 experimental medical or nutritional therapy when the use of the
37 product for that purpose is not a general physician practice. For
38 regional center consumers receiving these services as part of their
39 individual program plan (IPP) or individualized family service

1 plan (IFSP) on July 1, 2009, this prohibition shall apply on August
2 1, 2009.

3 (b) (1) Advocacy for, and protection of, the civil, legal, and
4 service rights of persons with developmental disabilities as
5 established in this division.

6 (2) Whenever the advocacy efforts of a regional center to secure
7 or protect the civil, legal, or service rights of any of its consumers
8 prove ineffective, the regional center or the person with
9 developmental disabilities or his or her parents, legal guardian, or
10 other representative may request advocacy assistance from the
11 state council.

12 (c) The regional center may assist consumers and families
13 directly, or through a provider, in identifying and building circles
14 of support within the community.

15 (d) In order to increase the quality of community services and
16 protect consumers, the regional center shall, when appropriate,
17 take either of the following actions:

18 (1) Identify services and supports that are ineffective or of poor
19 quality and provide or secure consultation, training, or technical
20 assistance services for any agency or individual provider to assist
21 that agency or individual provider in upgrading the quality of
22 services or supports.

23 (2) Identify providers of services or supports that may not be
24 in compliance with local, state, and federal statutes and regulations
25 and notify the appropriate licensing or regulatory authority to
26 investigate the possible noncompliance.

27 (e) When necessary to expand the availability of needed services
28 of good quality, a regional center may take actions that include,
29 but are not limited to, the following:

30 (1) Soliciting an individual or agency by requests for proposals
31 or other means, to provide needed services or supports not presently
32 available.

33 (2) Requesting funds from the Program Development Fund,
34 pursuant to Section 4677, or community placement plan funds
35 designated from that fund, to reimburse the startup costs needed
36 to initiate a new program of services and supports.

37 (3) Using creative and innovative service delivery models,
38 including, but not limited to, natural supports.

39 (f) Except in emergency situations, a regional center shall not
40 provide direct treatment and therapeutic services, but shall utilize

1 appropriate public and private community agencies and service
2 providers to obtain those services for its consumers.

3 (g) When there are identified gaps in the system of services and
4 supports or when there are identified consumers for whom no
5 provider will provide services and supports contained in his or her
6 individual program plan, the department may provide the services
7 and supports directly.

8 (h) At least annually, *and at the time of development, scheduled*
9 *review, or modification of a consumer's individual program plan*
10 *or individualized family service plan*, regional centers shall provide
11 the consumer, his or her parents, legal guardian, conservator, or
12 authorized representative a statement of services and supports the
13 regional center purchased for the purpose of ensuring that they are
14 delivered. The statement shall include the type, unit, month, and
15 cost of services and supports purchased. *The regional center shall*
16 *provide that statement in the native language of the consumer or*
17 *his or her parents, legal guardian, conservator, or authorized*
18 *representative, or both.*

19 SEC. 3. Section 4648.35 of the Welfare and Institutions Code
20 is amended to read:

21 4648.35. At the time of development, review, or modification
22 of a consumer's individual program plan (IPP) or individualized
23 family service plan (IFSP), all of the following shall apply to a
24 regional center:

25 (a) A regional center shall not fund private specialized
26 transportation services for an adult consumer who can safely access
27 and utilize public transportation, when that transportation is
28 available.

29 (b) A regional center shall fund the least expensive
30 transportation modality that meets the consumer's needs, as set
31 forth in the consumer's IPP or IFSP.

32 (c) A regional center shall fund transportation, when required,
33 from the consumer's residence to the lowest-cost vendor that
34 provides the service that meets the consumer's needs, as set forth
35 in the consumer's IPP or IFSP. For purposes of this subdivision,
36 the cost of a vendor shall be determined by combining the vendor's
37 program costs and the costs to transport a consumer from the
38 consumer's residence to the vendor.

39 (d) A regional center shall fund transportation services for a
40 minor child living in the family residence, only if the family of

1 the child provides sufficient written documentation to the regional
2 center to demonstrate that it is unable to provide transportation for
3 the child. *At the time of development, scheduled review, or*
4 *modification of a consumer's individual program plan or*
5 *individualized family service plan, the regional center shall*
6 *provide, in a non-technical, understandable form and in the native*
7 *language of the consumer or his or her parents, legal guardian,*
8 *conservator, or authorized representative, or both, a written*
9 *statement of the requirement described in this subdivision and*
10 *examples of sufficient written documentation that may be submitted.*
11 *The regional center shall accept documentation submitted pursuant*
12 *to this subdivision in any written form, including in the native*
13 *language of the consumer or his or her parents, legal guardian,*
14 *conservator, or authorized representative.*

15 *SEC. 4. Section 4648.5 of the Welfare and Institutions Code*
16 *is amended to read:*

17 4648.5. (a) ~~Notwithstanding any other provision of law or~~
18 ~~regulations to the contrary, effective July 1, 2009, a regional~~
19 ~~centers' authority to purchase the following services shall be~~
20 ~~suspended pending implementation of the Individual Choice~~
21 ~~Budget and certification by the Director of Developmental Services~~
22 ~~that the Individual Choice Budget has been implemented and will~~
23 ~~result in state budget savings sufficient to offset the costs of~~
24 ~~providing the following services:~~

- 25 (1) Camping services and associated travel expenses.
26 (2) Social recreation activities, except for those activities
27 vendored as community-based day programs.
28 (3) Educational services for children three to 17, inclusive, years
29 of age.
30 (4) Nonmedical therapies, including, but not limited to,
31 specialized recreation, art, dance, and music.

32 (b) For regional center consumers receiving services described
33 in subdivision (a) as part of their individual program plan (IPP) or
34 individualized family service plan (IFSP), the prohibition in
35 subdivision (a) shall take effect on August 1, 2009.

36 (c) An exemption may be granted on an individual basis in
37 extraordinary circumstances to permit purchase of a service
38 identified in subdivision (a) when the regional center determines
39 that the service is a primary or critical means for ameliorating the
40 physical, cognitive, or psychosocial effects of the consumer's

1 developmental disability, or the service is necessary to enable the
2 consumer to remain in his or her home and no alternative service
3 is available to meet the consumer's needs.

4 *(d) At the time of development, scheduled review, or*
5 *modification of a consumer's individual program plan or*
6 *individualized family service plan, the regional center shall*
7 *provide, in a non-technical, understandable form and in the native*
8 *language of the consumer or his or her parents, legal guardian,*
9 *conservator, or authorized representative, or both, a written*
10 *statement describing the exemption in subdivision (c) and examples*
11 *of documentation that may be submitted to demonstrate*
12 *qualification for the exemption.*

13 SEC. 5. Section 4648.55 of the Welfare and Institutions Code
14 is amended to read:

15 4648.55. (a) A regional center shall not purchase day program,
16 vocational education, work services, independent living program,
17 or mobility training and related transportation services for a
18 consumer who is 18 to 22 years of age, inclusive, if that consumer
19 is eligible for special education and related education services and
20 has not received a diploma or certificate of completion, unless the
21 individual program plan (IPP) planning team determines that the
22 consumer's needs cannot be met in the educational system or grants
23 an exemption pursuant to subdivision (d). If the planning team
24 determines that generic services can meet the consumer's day,
25 vocational education, work services, independent living, or mobility
26 training and related transportation needs, the regional center shall
27 assist the consumer in accessing those services. To ensure that
28 consumers receive appropriate educational services and an effective
29 transition from services provided by educational agencies to
30 services provided by regional centers, the regional center service
31 coordinator, at the request of the consumer or, where appropriate,
32 the consumer's parent, legal guardian, or conservator, may attend
33 the individualized education program (IEP) planning team meeting.

34 (b) For consumers who are 18 to 22 years of age, inclusive, who
35 have left the public school system, and who are receiving regional
36 center purchased services identified in subdivision (a) on or before
37 the effective date of this section, a determination shall be made
38 through the IPP as to whether the return to the educational system
39 can be achieved while meeting the consumer's needs. If the
40 planning team determines that the consumer's needs cannot be

1 met in the educational system, the regional center may continue
2 to purchase the services identified in subdivision (a). If the planning
3 team determines that generic services can meet the consumer's
4 day, vocational education, work services, independent living, or
5 mobility training and related transportation needs, the regional
6 center shall assist the consumer in accessing those services.

7 (c) For consumers who are 18 to 22 years of age, inclusive, who
8 have left school prior to enactment of this section, but who are not
9 receiving any of the regional center purchased services identified
10 in subdivision (a), the regional center shall use generic education
11 services to meet the consumer's day, vocational education, work
12 services, independent living, or mobility training and related
13 transportation needs if those needs are subsequently identified in
14 the IPP unless the consumer is eligible for an exemption as set
15 forth in subdivision (d). If the planning team determines that
16 generic services can meet the consumer's day, vocational
17 education, work services, independent living, or mobility training
18 and related transportation needs, the regional center shall assist
19 the consumer in accessing those services.

20 (d) (1) An exemption to the provisions of this section may be
21 granted on an individual basis in extraordinary circumstances to
22 permit purchase of a service identified in subdivision (a). An
23 exemption shall be granted through the IPP process and shall be
24 based on a determination that the generic service is not appropriate
25 to meet the consumer's need. ~~The consumer shall be informed of~~
26 ~~the exemption and the process for obtaining an exemption.~~

27 (2) *At the time of development, scheduled review, or*
28 *modification of a consumer's individual program plan, the regional*
29 *center shall provide, in a non-technical, understandable form and*
30 *in the native language of the consumer or his or her parents, legal*
31 *guardian, conservator, or authorized representative, or both, a*
32 *written statement describing the exemption in paragraph (1) and*
33 *examples of documentation that may be submitted to demonstrate*
34 *qualification for the exemption.*

35 (3) *The IPP planning team shall consider the standard set forth*
36 *in Section 4688.05 when determining whether the consumer*
37 *qualifies for an exemption under this subdivision for the purpose*
38 *of meeting his or her independent living needs.*

39 (e) A school district may contract with regional center vendors
40 to meet the needs of consumers pursuant to this section.

1 *SEC. 6. Section 4659 of the Welfare and Institutions Code is*
2 *amended to read:*

3 4659. (a) Except as otherwise provided in subdivision (b) or
4 (e), the regional center shall identify and pursue all possible sources
5 of funding for consumers receiving regional center services. These
6 sources shall include, but not be limited to, both of the following:

7 (1) Governmental or other entities or programs required to
8 provide or pay the cost of providing services, including Medi-Cal,
9 Medicare, the Civilian Health and Medical Program for Uniform
10 Services, school districts, and federal supplemental security income
11 and the state supplementary program.

12 (2) Private entities, to the maximum extent they are liable for
13 the cost of services, aid, insurance, or medical assistance to the
14 consumer.

15 (b) Any revenues collected by a regional center pursuant to this
16 section shall be applied against the cost of services prior to use of
17 regional center funds for those services. This revenue shall not
18 result in a reduction in the regional center's purchase of services
19 budget, except as it relates to federal supplemental security income
20 and the state supplementary program.

21 (c) Effective July 1, 2009, notwithstanding any other law or
22 regulation, regional centers shall not purchase any service that
23 would otherwise be available from Medi-Cal, Medicare, the
24 Civilian Health and Medical Program for Uniform Services,
25 In-Home Support Services, California Children's Services, private
26 insurance, or a health care service plan when a consumer or a
27 family meets the criteria of this coverage but chooses not to pursue
28 that coverage. If, on July 1, 2009, a regional center is purchasing
29 that service as part of a consumer's individual program plan (IPP),
30 the prohibition shall take effect on October 1, 2009.

31 (d) (1) Effective July 1, 2009, notwithstanding any other law
32 or regulation, a regional center shall not purchase medical or dental
33 services for a consumer three years of age or older unless the
34 regional center is provided with documentation of a Medi-Cal,
35 private insurance, or a health care service plan denial and the
36 regional center determines that an appeal by the consumer or family
37 of the denial does not have merit. If, on July 1, 2009, a regional
38 center is purchasing the service as part of a consumer's IPP, this
39 provision shall take effect on August 1, 2009. *At the time of*
40 *development, scheduled review, or modification of a consumer's*

1 *individual program plan or individualized family service plan, the*
2 *regional center shall provide, in a non-technical, understandable*
3 *form and in the native language of the consumer or his or her*
4 *parents, legal guardian, conservator, or authorized representative,*
5 *or both, a written statement describing the documentation required*
6 *pursuant to this paragraph. Regional centers~~may~~ shall pay for*
7 *medical or dental services during the following periods:*

8 (A) While coverage is being pursued, but before a denial is
9 made.

10 (B) Pending a final administrative decision on the administrative
11 appeal if the family has provided to the regional center a
12 verification that an administrative appeal is being pursued.

13 (C) Until the commencement of services by Medi-Cal, private
14 insurance, or a health care service plan.

15 (2) When necessary, the consumer or family may receive
16 assistance from the regional center, the Clients' Rights Advocate
17 funded by the department, or the state council in pursuing these
18 appeals.

19 (e) This section shall not impose any additional liability on the
20 parents of children with developmental disabilities, or to restrict
21 eligibility for, or deny services to, any individual who qualifies
22 for regional center services but is unable to pay.

23 (f) In order to best utilize generic resources, federally funded
24 programs, and private insurance programs for individuals with
25 developmental disabilities, the department and regional centers
26 shall engage in the following activities:

27 (1) Within existing resources, the department shall provide
28 training to regional centers, no less than once every two years, in
29 the availability and requirements of generic, federally funded and
30 private programs available to persons with developmental
31 disabilities, including, but not limited to, eligibility requirements,
32 the application process and covered services, and the appeal
33 process.

34 (2) Regional centers shall disseminate information and training
35 to all service coordinators regarding the availability and
36 requirements of generic, federally funded, and private insurance
37 programs on the local level.

38 *SEC. 7. Section 4686.2 of the Welfare and Institutions Code*
39 *is amended to read:*

1 4686.2. (a) Effective July 1, 2009, notwithstanding any other
2 ~~provision of law or regulation to the contrary~~, any vendor who
3 provides applied behavioral analysis (ABA) services, or intensive
4 behavioral intervention services or both, as defined in subdivision
5 (d), shall:

6 (1) Conduct a behavioral assessment of each consumer to whom
7 the vendor provides these services.

8 (2) Design an intervention plan that shall include the service
9 type, number of hours and parent participation needed to achieve
10 the consumer's goals and objectives, as set forth in the consumer's
11 individual program plan (IPP) or individualized family service
12 plan (IFSP). The intervention plan shall also set forth the frequency
13 at which the consumer's progress shall be evaluated and reported.

14 (3) Provide a copy of the intervention plan to the regional center
15 for review and consideration by the planning team members.

16 (b) Effective July 1, 2009, notwithstanding any other ~~provision~~
17 ~~of law or regulation to the contrary~~, regional centers shall:

18 (1) Only purchase ABA services or intensive behavioral
19 intervention services that reflect evidence-based practices, promote
20 positive social behaviors, and ameliorate behaviors that interfere
21 with learning and social interactions.

22 (2) (A) Only purchase ABA or intensive behavioral intervention
23 services when the parent or parents of minor consumers receiving
24 services participate in the intervention plan for the consumers,
25 given the critical nature of parent participation to the success of
26 the intervention plan.

27 (B) *In determining the extent of parent participation required*
28 *for the provision of ABA or intensive behavioral intervention*
29 *services, the IPP or IFSP planning team shall consider any*
30 *relevant hardships suffered by a parent or parents that may*
31 *constitute a barrier to the consumer accessing those services,*
32 *including, but not limited to, availability of group instruction*
33 *courses, conflicts with employment, vocational training, or*
34 *educational demands, financial hardship, or lack of transportation*
35 *or child or other family member care, and language barriers. Any*
36 *hardships shall be documented in the IPP or IFSP and reviewed*
37 *annually to determine if there has been a change in circumstances.*
38 *If the regional center determines that the extent of parent*
39 *participation should be adjusted due to a change in circumstances,*

1 *the regional center shall provide adequate notice pursuant to*
2 *subdivision (a) of Section 4710.*

3 *(C) At the time of development, scheduled review, or*
4 *modification of a consumer's IPP or IFSP, the regional center*
5 *shall provide, in a non-technical, understandable form and in the*
6 *native language of the consumer or his or her parents, legal*
7 *guardian, conservator, or authorized representative, or both, a*
8 *written statement describing the process for determining the extent*
9 *of parent participation pursuant to this paragraph and examples*
10 *of documentation that may be submitted to demonstrate hardships.*

11 (3) Not purchase either ABA or intensive behavioral intervention
12 services for purposes of providing respite, day care, or school
13 services.

14 (4) Discontinue purchasing ABA or intensive behavioral
15 intervention services for a consumer when the consumer's
16 treatment goals and objectives, as described under subdivision (a),
17 are achieved. ABA or intensive behavioral intervention services
18 shall not be discontinued until the goals and objectives are reviewed
19 and updated as required in paragraph (5) and shall be discontinued
20 only if those updated treatment goals and objectives do not require
21 ABA or intensive behavioral intervention services.

22 (5) For each consumer, evaluate the vendor's intervention plan
23 and number of service hours for ABA or intensive behavioral
24 intervention no less than every six months, consistent with
25 evidence-based practices. If necessary, the intervention plan's
26 treatment goals and objectives shall be updated and revised.

27 (6) Not reimburse a parent for participating in a behavioral
28 services treatment program.

29 (c) For consumers receiving ABA or behavioral intervention
30 services on July 1, 2009, as part of their IPP or IFSP, subdivision
31 (b) shall apply on August 1, 2009.

32 (d) For purposes of this section the following definitions shall
33 apply:

34 (1) "Applied behavioral analysis" means the design,
35 implementation, and evaluation of systematic instructional and
36 environmental modifications to promote positive social behaviors
37 and reduce or ameliorate behaviors which interfere with learning
38 and social interaction.

39 (2) "Intensive behavioral intervention" means any form of
40 applied behavioral analysis that is comprehensive, designed to

1 address all domains of functioning, and provided in multiple
2 settings for no more than 40 hours per week, across all settings,
3 depending on the individual's needs and progress. Interventions
4 can be delivered in a one-to-one ratio or small group format, as
5 appropriate.

6 (3) "Evidence-based practice" means a decisionmaking process
7 that integrates the best available scientifically rigorous research,
8 clinical expertise, and individual's characteristics. Evidence-based
9 practice is an approach to treatment rather than a specific treatment.
10 Evidence-based practice promotes the collection, interpretation,
11 integration, and continuous evaluation of valid, important, and
12 applicable individual- or family-reported, clinically-observed, and
13 research-supported evidence. The best available evidence, matched
14 to consumer circumstances and preferences, is applied to ensure
15 the quality of clinical judgments and facilitates the most
16 cost-effective care.

17 (4) "Parent participation" shall include, but shall not be limited
18 to, the following meanings:

19 (A) Completion of group instruction on the basics of behavior
20 intervention.

21 (B) Implementation of intervention strategies, according to the
22 intervention plan.

23 (C) If needed, collection of data on behavioral strategies and
24 submission of that data to the provider for incorporation into
25 progress reports.

26 (D) Participation in any needed clinical meetings.

27 (E) Purchase of suggested behavior modification materials or
28 community involvement if a reward system is used.

29 *SEC. 8. Section 4686.5 of the Welfare and Institutions Code*
30 *is amended to read:*

31 4686.5. (a) Effective July 1, 2009, notwithstanding any other
32 provision of law or regulation to the contrary, all of the following
33 shall apply:

34 (1) A regional center may only purchase respite services when
35 the care and supervision needs of a consumer exceed that of an
36 individual of the same age without developmental disabilities.

37 (2) A regional center shall not purchase more than 21 days of
38 out-of-home respite services in a fiscal year nor more than 90 hours
39 of in-home respite services in a quarter, for a consumer.

1 (3) (A) A regional center may grant an exemption to the
2 requirements set forth in paragraphs (1) and (2) if it is demonstrated
3 that the intensity of the consumer's care and supervision needs are
4 such that additional respite is necessary to maintain the consumer
5 in the family home, or there is an extraordinary event that impacts
6 the family member's ability to meet the care and supervision needs
7 of the consumer.

8 *(B) At the time of development, scheduled review, or*
9 *modification of a consumer's individual program plan or*
10 *individualized family service plan, the regional center shall*
11 *provide, in a non-technical, understandable form and in the native*
12 *language of the consumer or his or her parents, legal guardian,*
13 *conservator, or authorized representative, or both, a written*
14 *statement describing the exemption in subparagraph (A) and*
15 *examples of documentation that may be submitted to demonstrate*
16 *qualification for the exemption.*

17 ~~(B)~~

18 (C) For purposes of this section, "family member" means an
19 individual who:

20 (i) Has a consumer residing with him or her.

21 (ii) Is responsible for the 24-hour care and supervision of the
22 consumer.

23 (iii) Is not a licensed or certified residential care facility or foster
24 family home receiving funds from any public agency or regional
25 center for the care and supervision provided. Notwithstanding this
26 provision, a relative who receives foster care funds shall not be
27 precluded from receiving respite.

28 (4) A regional center shall not purchase day care services to
29 replace or supplant respite services. For purposes of this section,
30 "day care" is defined as regularly provided care, protection, and
31 supervision of a consumer living in the home of his or her parents,
32 for periods of less than 24 hours per day, while the parents are
33 engaged in employment outside of the home or educational
34 activities leading to employment, or both.

35 (5) A regional center shall only consider in-home supportive
36 services a generic resource when the approved in-home supportive
37 services meets the respite need as identified in the consumer's
38 individual program plan (IPP) or individualized family service
39 plan (IFSP).

1 (b) For consumers receiving respite services on July 1, 2009,
2 as part of their IPP or IFSP, subdivision (a) shall apply on August
3 1, 2009.

4 (c) This section shall remain in effect until implementation of
5 the individual choice budget pursuant to Section 4648.6 and
6 certification by the Director of the Department of Developmental
7 Services that the individual choice budget has been implemented
8 and will result in state budget savings sufficient to offset the costs
9 associated with the repeal of this section. This section shall be
10 repealed on the date of certification.

11 ~~SECTION 1. It is the intent of the Legislature to enact~~
12 ~~legislation to require regional centers to provide nontechnical,~~
13 ~~understandable information in a consumer's native language~~
14 ~~regarding the complex process of obtaining certain regional center~~
15 ~~services.~~